

<b>Committee Date</b>	06.08.2020	
<b>Address</b>	Jacanda Lodge North Drive Beckenham BR3 3XQ	
<b>Application Number</b>	16/01330/CONDT1	<b>Officer</b> - Russell Penn
<b>Ward</b>	Kelsey And Eden Park	
<b>Proposal</b>	Details submitted to discharge conditions in relation to planning ref 16/01330/FULL1: Condition 4 - Landscaping	
<b>Applicant</b>	<b>Agent</b>	
Northern Land Developments Ltd  C/o Mr John Escott Robinson Escott Planning Downe House 303 High Street Orpington BR6 0NN	Jim Quaife  2 Squerryes Farm Cottages Westerham Kent TN16 1SL	
<b>Reason for referral to committee</b>	Call-In	<b>Councillor call in</b>  Yes

<b>RECOMMENDATION</b>	REFUSAL
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 21 Smoke Control SCA 9 Urban Open Space</p>
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<b>Representation summary</b>	<i>No publicity has been undertaken. The application relates to a discharge of a planning condition only.</i>	
Total number of responses		0
Number in support		0
Number of objections		0

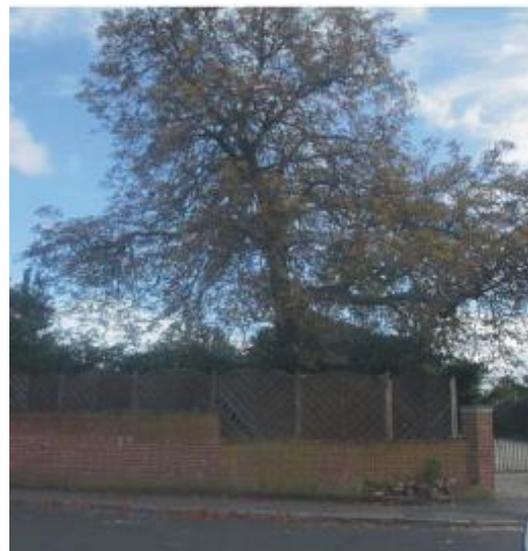
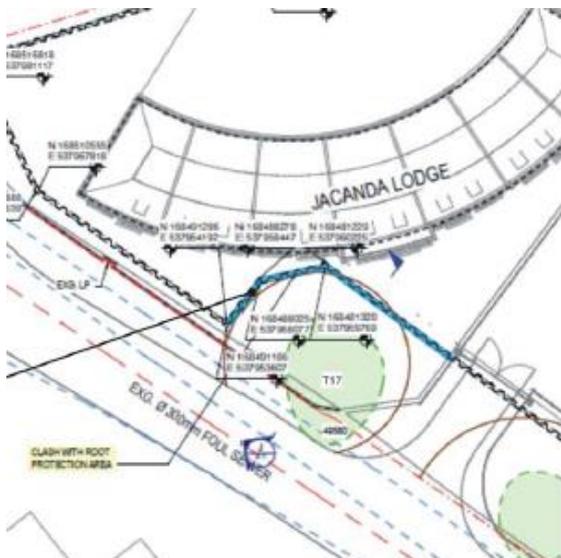
## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal would likely result in a harmful loss of public visual amenity due to the loss of the continued presence of the horse chestnut tree.

## 2 LOCATION

2.1 The site is located on the eastern side of South Eden Park Road at the junction with Wickham Way, Park Avenue, Wickham Road and Hayes Lane on the traffic roundabout known locally as the Chinese Garage roundabout. The site comprises two detached dwellings accessed from the entrance adjacent to North Drive and from North Drive itself to the south, which is private access road. Further south is an open area of land designated as Urban Open Space. East of the site are large two storey detached properties located within the Park Langley Conservation Area which adjoins the eastern boundary of the site. West of the site is the Chinese Garage building which is Grade II Listed with more modern unlisted single storey buildings to the rear associated with its use for vehicle repairs/workshops. To the north of the site on the opposite side of the roundabout are two Grade II Listed residential dwellings and a small commercial shopping parade.

2.2 The boundary of the whole site adjoining the roundabout is screened with a high wall, fencing and Laurel hedging and a number of mature trees. This application relates to a horse chestnut tree (T17) on the submitted plan which is protected by a Tree Preservation Order (Ref:1763) made on 8/12/2000.



- 2.3 The horse chestnut tree is protected as a single tree, but is the continuation of a line of 5 horse chestnuts extending to the south west along the South Eden Park Road frontage which are protected by another TPO (Ref:1881) made 27/11/2001.

### **3 PROPOSAL**

- 3.1 Permission is sought to re discharge Condition 4 of planning permission 16/01330/FULL1 in relation to a landscaping scheme for the site.
- 3.2 The condition has already been discharged under planning reference 16/01330/CONDIT. The revised application to discharge the condition again involves a minor alteration to the landscaping scheme to remove a horse chestnut tree (T17) that was previously indicated to be retained.

### **4 RELEVANT PLANNING HISTORY**

- 4.1 The relevant planning history relating to the application site is summarised as follows:
- 4.2 Under ref. 16/01330/FULL1 planning permission was granted for the demolition of two detached dwellinghouses and construction of a crescent terrace of 7 three storey four bedroom plus roof accommodation townhouses with basement car parking, refuse store and associated landscaping.
- 4.3 The development has commenced on site involving sheet piling enabling works for the basement car park under Building Control reference 19/16279/DOBNQ.
- 4.4 Under ref. 16/01330/CONDIT permission was granted for the discharge of planning conditions. Condition 3 – Materials; Condition 4 – Landscaping; Condition 5 - Slab Levels; Condition 6 - Contamination Assessment - parts (a) to (c); Condition 8 - Surface water drainage; Condition 11 - Construction Management.

### **5 CONSULTATION SUMMARY**

#### **A) Statutory**

##### Tree Officer – Objection

- This application seeks to address planning conditions surrounding the construction of the boundary wall, fronting South Eden Park Road. The horse chestnut (T17) is proposed to be felled to allow substantial footings to be excavated. A supporting statement has been supplied on behalf of the client, by the retained arboricultural consultant.
- The boundary wall does not appear to be notable in terms of design and character. The wall has been repaired in the past, which is visible in the brickwork. The wall is approximately 1.5m high for the majority of the front boundary, but steps down to approximately 1m near the tree and access drive.
- Cost of repairs have been demonstrated in the supporting statement and this is relevant for comparing the value of the tree and the proposed mitigation scheme. A

CAVAT assessment of the tree, indicates the a value of £62,052 based on the tree survey data submitted with application 16/01330/FULL1. The estimated costs of repair therefore marginally exceed the value of the tree.

- To consider a costs exercise at this stage is not considered necessary. The current issue is a conflict of planning condition. The repair or reinstatement of the wall is considered less of a priority to the retention of the tree. It would therefore be viable to allow a change in boundary material/route. I am not satisfied that an appraisal for an alternative technical design has been carried out. I do not see the necessity of a wall structure that would need to exceed 1m or that it need be a wall. I would therefore encourage the boundary design be re-designed.
- I can confirm that the condition of the tree is not a concern. Horse Chestnut Leaf Minor (*Cameraria ohridella*) is impacting all horse chestnuts in the Borough and is not a defect that would warrant any remedial action. A number of other defects would need to be present before the impact on an individual tree is a cause for concern. I hope this clarifies that there are no health issues demonstrated that would lead me to reconsider a refusal stance.

## **B) Adjoining Occupiers**

- Notification is not required in relation to an application to discharge a planning condition.

## **6 POLICIES AND GUIDANCE**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-
- (a) the provisions of the development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.
- 6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.
- 6.3 The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.
- 6.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 6.5 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This

was version of the London Plan which the Mayor intended to publish, having considered the report and recommendations of the panel of Inspectors.

- 6.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 6.7 After considering the 'Intend to Publish' Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London Plan until the directed changes have been incorporated, or until alternative changes to address identified concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.
- 6.8 At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.
- 6.9 The application falls to be determined in accordance with the following policies:-

#### **6.10 National Policy Framework 2019**

#### **6.11 The London Plan**

- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.21 Trees and Woodlands

#### **6.12 Draft London Plan**

- D4 Delivering good design
- D5 Inclusive design
- G7 Trees and woodlands

#### **6.13 Bromley Local Plan 2019**

- 37 General Design of Development
- 73 Development and Trees
- 77 Landscape Quality and Character

#### **6.14 Bromley Supplementary Guidance**

London Borough of Bromley Tree Management strategy 2016 – 2020

## **7 ASSESSMENT**

## 7.1 Trees – Unacceptable

- 7.1.1 This application proposes to fell the protected horse chestnut tree (T17) to the front of the site to enable the re-construction of the boundary wall. This has been submitted as a revision of landscaping details (Condition 4). Condition 7 of the same planning permission relates to the Arboricultural Survey and Planning Integration Report.
- 7.1.2 Planning permission was granted under reference 16/01330/FULL1 with a key condition to ensure compliance with the arboricultural submission. The tree is a significant feature of the site and a key constraint to the development. Had the tree been proposed for felling in the original submission, the application would have been considered contrary to Council Policy and would have resulted in a recommendation for refusal.
- 7.1.3 It would appear that the conflict of planning conditions surrounding the construction of the boundary wall, fronting South Eden Park Road, have resulted in this issue surfacing. The horse chestnut is proposed to be felled to allow substantial footings to be excavated for a replacement boundary wall structure. A supporting statement has been supplied on behalf of the client, by the retained arboricultural consultant. This advice is purely to accommodate the re-construction of the wall.
- 7.1.4 The boundary wall does not appear to be notable in terms of design and character. The wall has been repaired in the past, which is visible in the brickwork. The wall is approximately 1.5m high for the majority of the front boundary, but steps down to approximately 1m near the tree and access drive.
- 7.1.5 Costs of repairs have been demonstrated in the supporting statement and this is relevant for comparing the value of the tree and the proposed mitigation scheme. A CAVAT assessment of the tree, indicates a value of £62,052 based on the tree survey data submitted with application 16/01330/FULL1. The estimated costs of repair therefore marginally exceed the value of the tree.
- 7.1.6 To consider a costs exercise at this stage is not considered necessary. The repair or reinstatement of the wall is considered less of a priority to the retention of the tree. It would therefore be viable to review a change in boundary structure type or design. It is not considered that an appraisal for an alternative technical design has been carried out to exhaust all possibilities that would allow the retention of the tree.
- 7.1.7 It has also been clarified above that there are no health issues demonstrated that would lead to acceptance that the removal of the horse chestnut tree would be warranted on its health wellbeing.
- 7.1.8 The tree is a key feature of the area and the permitted scheme (16/01330/FULL1). It is therefore recommended that the proposal be opposed and tree retention be defended.

## 8 CONCLUSION

- 8.1 Having regard to the above, the plans and information that has been submitted is insufficient to establish that the removal of the horse chestnut tree (TPO Ref: 1763)

is necessary as part of the landscaping works and is the only solution possible to adequately establish that planning condition 4 can be discharged. The proposal would likely result in a harmful loss of public visual amenity due to the loss of the continued presence of the horse chestnut tree.

**RECOMMENDATION: REFUSAL**

**Reason for refusal:**

**The plans and information that has been submitted is insufficient to establish that the removal of the horse chestnut tree (TPO Ref: 1763) is necessary as part of the landscaping works and is the only solution possible to adequately establish that planning condition 4 can be discharged. The proposal would likely result in a harmful loss of public visual amenity due to the loss of the continued presence of the horse chestnut tree. The details submitted do not therefore comply with the provisions of the Town and Country Planning Act 1990 Part III Section 72 (as amended).**